

## UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

## In the Matter of the Search of

(Name, address or brief description of person, property or premises to be searched)

One (1) Motorola T Mobile Cellular Telephone  
 Serial Number: D563ET9207  
 SIM Card and ID Number: 8952020306610039480F  
 Black/Silver in Color

APPLICATION AND AFFIDAVIT  
FOR SEARCH WARRANT

Case Number: '08 MJ 8652

I, COLE DOTSON being duly sworn depose and say:I am a(n) Special Agent with U. S. Immigration & Customs Enforcement and have reason to believe  
Official Titlethat ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)

REFER TO ATTACHMENT A

in the SOUTHERN District of CALIFORNIA

there is now concealed a certain person or property, namely (describe the person or property to be seized)

REFER TO ATTACHMENT B

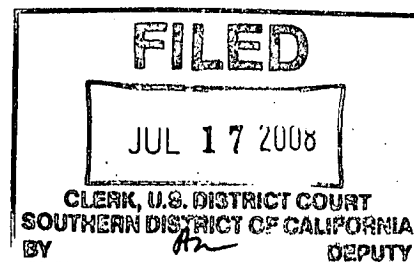
which is (state one or more bases for search and seizure set forth under Rule 41(c) of the Federal Rules of Criminal Procedure)

electronic data that constitutes evidence of a criminal offense and electronic data which is and  
 has been used as the means for committing a criminal offense.

concerning a violation of Title 21 United States Code, Section(s) 841(a)(1), 952 & 960

The facts to support a finding of probable cause are as follows:

REFER TO ATTACHED AFFIDAVIT OF ICE AGENT DOTSON.



Continued on the attached sheet and made a part hereof:

☒ Yes☐ No

Signature of Affiant

Sworn to before me and subscribed in my presence,

July 17, 2008  
 Date

Peter C. Lewis

Name of Judge

U.S. Magistrate Judge

Title of Judge

at

EL CENTRO

City

CALIFORNIA

State

Signature of Judge

**ATTACHMENT A**

**PROPERTY/ITEMS TO BE SEARCHED**

The property/items to be searched are described as:

One (1) Motorola T Mobile Cellular Telephone  
Serial Number: D563ET9207  
SIM Card & ID Number: 8952020306610039480F  
Black/Silver in Color

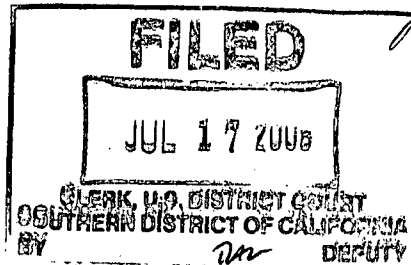
ATTACHMENT B

ITEMS TO BE SEIZED

One (1) Motorola T Mobile Cellular Telephone, Serial Number: D563ET9207, SIM Card & ID Number: 8952020306610039480F, Black/Silver in Color, presently in the custody of U. S. Immigration & Customs Enforcement, Resident Agent in Charge, El Centro, CA:

After U. S. Immigration & Customs officers gain access to the cellular telephone, the cellular telephone will be searched for the following electronic data:

1. The phone numbers and/or direct connect and/or names and identities assigned to the cellular phone; which constitutes evidence of the commission of Title 21, United States Code, 952, 960, & 841(a)(1);
2. Digital, cellular, and/or telephone numbers and/or direct connect numbers, names and identities stored in the directories; which constitutes evidence of the commission of Title 21, United States Code, 952, 960, & 841(a)(1);
3. Phone numbers and direct connect numbers dialed from the cellular phone and stored in memory; which constitutes evidence of the commission of Title 21, United States Code, 952, 960, & 841(a)(1);
4. The last number dialed from the cellular phone; which constitutes evidence of the commission of Title 21, United States Code, 952, 960, & 841(a)(1);
5. Text messages, voicemail, and pictures; which constitutes evidence of the commission of Title 21, United States Code, 952, 960, & 841(a)(1).



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 8652

In the Matter of the Search of:	) Magistrate Case No.:
	)
One (1) Motorola i425 Cellular Telephone	) AFFIDAVIT OF ICE SPECIAL
Serial Number: 364VJAPV71	) AGENT COLE DOTSON IN
SIM Card and ID Number: 000823164165300	) IN SUPPORT OF SEARCH
Black/White in Color	) <u>WARRANT</u>
	)
One (1) Motorola T Mobile Cellular	)
Telephone	)
Serial Number: D563ET9207	)
SIM Card and ID Number:	)
8952020306610039480F	)
Black/Silver in Color	)
	)

I, Cole Dotson, being first duly sworn, hereby depose and say:

PURPOSE

1. This affidavit is made in support of an extension of a search warrant for federal agents to search a cellular telephone for electronic data. The original search warrant, filed July 8, 2008, commanded completion by July 18, 2008. However, due to the workload of the Computer Forensic Agents the search of the cell phone

1 content can not be completed till August 15, 2008. This Affiant  
2 hereby requests an extension of execution till August 15, 2008.

3 2. This affidavit is made in support of an application for a  
4 search warrant for federal agents to search the following cellular  
5 telephone for electronic data that constitutes evidence of the  
6 commission of a criminal offense, and electronic data which is and  
7 has been used as the means for committing a criminal offense: (1)  
8 One Motorola i425 cellular telephone, Serial Number: 364VJAPV71,  
9 SIM Card and ID Number: 000823164165300, Black/White in Color; and  
10 (2) One Motorola T Mobile cellular telephone, Serial Number:  
11 D563ET9207, SIM Card and ID Number: 8952020306610039480F, Black/  
12 Silver in Color.  
13

14 **BACKGROUND AND EXPERTISE**

15 3. I am a Special Agent (SA) with the United States Immigration  
16 and Customs Enforcement (ICE), which is a component agency of the  
17 Department of Homeland Security. I have been employed as an ICE  
18 Special Agent since October 28, 2007. Prior to that, I was a  
19 Border Patrol Agent with Customs and Border Protection for  
20 approximately three years. Concurrently, I am a Commissioned  
21 Officer in the Army National Guard, which includes three years  
22 active duty Army and ten years reserve component service. I hold  
23 a Bachelor of Arts in History from the University of California,  
24 San Diego. I have been cross-designated by the United States Drug  
25 Enforcement Administration (DEA) to conduct controlled substance  
26 investigations and enforce provisions of the Federal Controlled  
27  
28

1 Substances Act, pursuant to Title 21 of the United States Code.  
2 Moreover, I have spoken with other agents with extensive experience  
3 in controlled substance investigations.

4 4. I am currently assigned to the ICE Office of the  
5 Assistant Special Agent in Charge (ASAC), Office of Investigations,  
6 El Centro, California. I am assigned to conduct investigations of  
7 criminal violations relating to the smuggling and transportation of  
8 controlled substances. I have personally arrested or participated  
9 in the arrest of several persons for violations of the Controlled  
10 Substances Act. In each of these cases, I have conducted  
11 interviews with the arrested persons and with their associates.  
12 Through these interviews, I have gained a working knowledge and  
13 insight into the typical workings of controlled substance  
14 traffickers and smugglers. I have also gained extensive information  
15 as to the normal operational habits of persons who make their  
16 living as controlled substance traffickers.

17 5. Through the course of my duties, I have talked with  
18 experienced controlled substance investigators about the activities  
19 of controlled substance traffickers, and I have received on the job  
20 training dealing with the activities of controlled substances  
21 traffickers practiced locally. I am aware that it is a common  
22 practice for controlled substance traffickers to use cellular  
23 telephones and portable radios to maintain communications with co-  
24 conspirators to further their criminal activities. I have made  
25 numerous arrests for violations of Title 21 of the United States  
26 Code, and am familiar with the identification of all types of  
27

1 controlled substances by sight and color.

2 6. This statement is made in support of an application for  
3 a search warrant to search two cellular telephones that are  
4 believed to contain evidence of violations of Title 21, United  
5 States Code, sections 952 and 960, importation of a controlled  
6 substance, and Title 21, United States Code, sections 841(a)(1),  
7 possession of a controlled substance with intent to distribute.

8 7. This affidavit does not contain all of the information  
9 known to federal agents regarding this investigation, but, rather,  
10 contains only those facts believed to be necessary to establish  
11 probable cause.

12  
13 8. Based upon my training and experience as a Special Agent,  
14 consultations with other Special Agents, and law enforcement  
15 officers experienced in controlled substance trafficking  
16 investigations, and all the facts and opinions set forth in this  
17 affidavit, I submit the following:

18 a. Drug traffickers will use cellular telephones because  
19 they are mobile and they have instant access to telephone calls and  
20 voice messages;

21 b. Drug traffickers believe that cellular telephones provide  
22 greater insulation and protection against court-ordered wiretaps,  
23 and they believe in the inability of law enforcement personnel to  
24 simultaneously track the originating and destination telephone  
25 numbers of calls placed to and from their cellular telephones;

26 c. ICE agents will deliver the cellular telephone to cellular  
27  
28

1 telephone forensic examiners at the ICE Special Agent-in-Charge San  
2 Diego Forensics Group. These examiners may be able to determine  
3 the personal identification number, turn on the cellular telephone,  
4 and retrieve data from the cellular telephone. Unlike typical  
5 computers, cellular telephones do not have hard drives and store  
6 information in volatile memory. Current technology does not  
7 provide solutions for imaging the data stored in cellular telephone  
8 memory. Consequently, the telephone will have to be powered up and  
9 turned on by a forensic examiner. The examination may be delayed  
10 due to the lack of the appropriate charging device. The examiner  
11 will need to manually examine the cellular telephone and its  
12 functions and record their findings using digital photography.  
13 This process is time and labor intensive and, depending upon the  
14 workload of the few certified cellular telephone forensic examiners  
15 available, it may take weeks or longer. Therefore, your affiant  
16 is requesting that the time for service be extended to thirty (30)  
17 days.

18 **SUMMARY OF INVESTIGATION / FACTS SUPPORTING PROBABLE CAUSE**

19 9. This affidavit is based on the reports and documents  
20 furnished to ICE Special Agent Cole Dotson.

21 10. On May 14, 2008, I, Special Agent Cole Dotson, responded  
22 to the Calexico, California, west port of entry (POE) regarding a  
23 seizure of cocaine.

24 11. According to an incident report prepared by U. S. Customs  
25 and Border Protection Officer Stensgard, on May 14, 2008, at  
26 approximately 1020 hours, Jesus Manuel PEREZ entered the United  
27 States at the Calexico, California, west POE. PEREZ was the driver  
28 and registered owner of a 2000 Chrysler Sebring, bearing California



1 license plate 6AMX948. PEREZ was accompanied by Jose GONZALEZ-  
2 Perales.

3 12. According to an incident report prepared by Canine  
4 Enforcement Officer S. Barela, his assigned Narcotic Detector Dog  
5 alerted to the back seat area of the 2000 Chrysler Sebring. A  
6 subsequent inspection of the vehicle revealed 20 packages concealed  
7 in a non-factory compartment behind the back seat. A sample of a  
8 white powdery substance was removed from one of the packages, which  
9 field-tested positive for cocaine. The 20 packages had a combined  
10 net weight of approximately 22.60 kilograms (49.72 pounds).

11 13. On May 14, 2008, your affiant (SA Dotson), verbally advised  
12 PEREZ of his rights per *Miranda*. PEREZ stated he understood his  
13 rights and was willing to answer questions without the presence of  
14 an attorney. PEREZ admitted his intention to transport contraband  
15 into the United States. PEREZ stated he thought the vehicle  
16 contained twenty (20) kilograms of marijuana. PEREZ stated that  
17 GONZALEZ called him on May 13, 2008, to arrange a ride to  
18 GONZALEZ's probation officer's office in El Centro, California.  
19 PEREZ stated he picked up GONZALEZ from GONZALEZ's girlfriend's  
20 house in the morning on May 14, 2008.

21 14. Your affiant asked how PEREZ contacted the smugglers who  
22 hired him to transport the contraband. PEREZ stated he contacted  
23 them by telephone. SA Dotson asked PEREZ if he knew the telephone  
24 numbers. PEREZ stated the telephone numbers were in the telephone  
25 in the car. SA Dotson asked which name the numbers were listed  
26 under. PEREZ stated there was not a name. PEREZ stated he just  
27 knew the smugglers by the number. PEREZ proceeded to state there  
28 were two telephones containing the smugglers' numbers. PEREZ stated  
that the white Nextel which was in the car and the "regular grey  
telephone" that was brought into the "office," had the smugglers'  
telephone numbers. These telephones were later identified as one  
(1) Motorola i425 cellular telephone, Serial Number: 364VJAPV71,

1 SIM Card and ID Number: 000823164165300, Black/White in Color; and  
2 one (1) Motorola T Mobile cellular telephone, Serial Number:  
3 D563ET9207, SIM Card and ID Number: 8952020306610039480F, Black/  
4 Silver in Color.

5 15. Customs and Border Protection Officers collected PEREZ's  
6 personal property, including three cellular telephones. Officers  
7 gave your affiant PEREZ's personal property and cellular  
8 telephones.

9 16. On May 14, 2008, your affiant, verbally advised GONZALEZ  
10 of his rights per *Miranda*. GONZALEZ stated he understood his  
11 rights and was willing to answer questions without the presence of  
12 an attorney. GONZALEZ denied knowledge of any illegal substance in  
13 the vehicle. GONZALEZ stated he had never seen the vehicle before  
14 May 14, 2008. GONZALEZ stated he and PEREZ are only roommates.  
15 GONZALEZ stated they do not see each other very much. GONZALEZ  
16 stated he rarely calls PEREZ on the telephone. GONZALEZ stated  
17 the last time he called PEREZ was a week prior to May 14, 2008.  
18 GONZALEZ stated they happened to meet each other as GONZALEZ was  
19 going to the bus station in order to see his probation officer.  
20 PEREZ offered GONZALEZ a ride instead.

21 17. On May 14, 2008, PEREZ and GONZALEZ were transported to  
22 the Imperial County Jail to await their initial appearance before  
23 a U.S. Magistrate.

24 18. On May 15, 2008, PEREZ and GONZALEZ were arraigned before  
25 U. S. Magistrate Peter C. Lewis on a complaint for violation of  
26 Title 21, United States Code, 952 and 960, Importation of a  
27 Controlled Substance (22.60 kilograms of cocaine).

28 19. On May 29, 2008, PEREZ and GONZALEZ were arraigned before  
U. S. Magistrate Peter C. Lewis on a two count indictment, to wit:  
Count 1: Title 21, United States Code, sections 952 and 960  
Importation of Cocaine; and Count 2: Title 21, United States Code,

1 section 841(a)(1) Possession of Cocaine with Intent to Distribute.

2 20. A motion hearing/trial setting is set for July 7, 2008, at  
3 2:00 p.m. before U. S. District Court Judge Irma E. Gonzalez.

4 DESCRIPTION OF PROPERTY/ITEMS TO BE SEARCHED

5 21. The property/items to be searched are further described as  
6 one (1) Motorola i425 cellular telephone, Serial Number:  
7 364VJAPV71, SIM Card and ID Number: 000823164165300, Black/ White  
8 in Color; and one (1) Motorola T Mobile cellular telephone, Serial  
9 Number: D563ET9207, SIM Card and ID Number: 8952020306610039480F,  
Black/ Silver in Color.

10 DESCRIPTION OF PROPERTY/ITEMS TO BE SEIZED

11 22. The items to be seized from each cellular telephone are  
12 electronic data that constitute evidence of the commission of a  
13 criminal offense, and electronic data that is, and has been used as  
14 the means for committing a criminal offense. The specific criminal  
15 offenses involved are violations of Title 21, United States Code,  
16 sections 952 and 960, Importation of a Controlled Substance, and  
17 Title 21, United States Code, section 841(a)(1), Possession of a  
18 Controlled Substance with Intent to Distribute. The items to be  
19 seized include the electronic data described below:

20 a. The telephone numbers and/or direct-connect and/or  
21 names and identities assigned to the cellular telephone;

22 b. Digital, cellular, and/or telephone numbers and/or  
23 direct connect numbers, names and identities stored in the  
24 directories;

25 c. Telephone numbers and direct-connect numbers dialed  
26 from the cellular telephone and stored in memory;

d. The last number dialed from the cellular telephone

and;

e. Any other electronic information in the stored memory of the cellular telephone, including but not limited to text messages, voicemail, and pictures, relating to violations of Title 21, United States Code, Sections 952 and 960, Importation of Controlled Substance and Title 21, United States Code, Section 841(a)(1), Possession of Controlled Substance with Intent to Distribute.

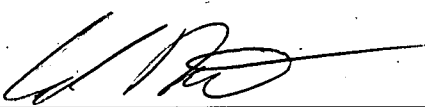
## CONCLUSION

23. Based on the facts contained in this affidavit and my experience and training, I submit that there is probable cause to believe that one (1) Motorola i425 cellular telephone, Serial Number: 364VJAPV71, SIM Card and ID Number: 000823164165300, Black/ White in Color; and one (1) Motorola T Mobile cellular telephone, Serial Number: D563ET9207, SIM Card and ID Number: 8952020306610039480F, Black/ Silver in Color, contains evidence of violations of Title 21, United States Code, sections 952 and 960, Importation of a Controlled Substance, and Title 21, United States Code, section 841(a)(1) Possess of a Controlled Substance with Intent to Distribute. Further, I believe that the above-described property/items to be seized will be found when this warrant is served. Consequently, based on the probable cause discussed above, I specifically request authority to seize the items described above and in Attachment B hereto (incorporated herein by reference). Therefore, for the reasons set forth in this affidavit and

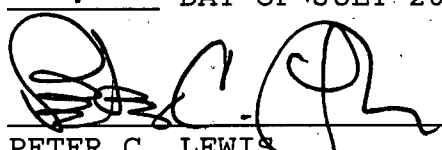
1 application, I respectfully request that a separate search warrant  
2 be issued for each cellular telephone.

3 23. I have prepared this affidavit in close consultation with  
4 several federal agents with whom I work and Assistant U. S.  
5 Attorney Karla Davis in the Southern District of California.

6 24. I, or any other duly authorized federal agent, will  
7 personally serve the warrant requested above, and will be assisted  
8 by other duly authorized federal investigators. I swear the  
9 foregoing is true and correct to the best of my knowledge and  
10 belief.

11  
12   
13 COLE DOTSON  
14 Special Agent  
U. S. Immigration  
and Customs Enforcement

15 SUBSCRIBED AND SWORN TO BEFORE THIS 17<sup>th</sup> DAY OF JULY 2008.

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17   
18 PETER C. LEWIS  
19 U. S. Magistrate Judge  
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